

# **ECONOMIC, SMALL BUSINESS, AND CONSUMER IMPACT STATEMENT<sup>1</sup>**

## **TITLE 2. ADMINISTRATION**

### **CHAPTER 8. STATE RETIREMENT SYSTEM BOARD**

#### **1. Identification of the rulemaking:**

The ASRS needs to amend approximately two rules in Article 7. The rules need to reflect that Contributions Not Withheld (CNW) payments are not due to the ASRS when the employer remits an Alternate Contribution Rate (ACR) payment pursuant to A.R.S. § 38-766 or when contributions are made to another Arizona retirement system. This amendment will prevent the employer from overpaying contributions during the same time period and will clarify that members are not entitled to receive service credit for the same hours worked in more than one state retirement system. The rules also need to reflect that the employer representative is not required to initial each statement of understanding on the Verification of Contributions Not Withheld form; and that gross salary and hours worked are reported by pay period within each fiscal year.

#### **a. The conduct and its frequency of occurrence that the rule is designed to change:**

A.R.S. § 38-766 indicates that an ACR is due to the ASRS for every retired member who returns to work with an ASRS employer. However, these rules are necessary to clarify that if the employer is remitting an ACR on behalf of a member, the employer should not be remitting contributions. Without these rules, some employers will remit both an ACR and a contribution on behalf of a member resulting in an overpayment and requiring administrative action to adjust retirement accounts and correct the error. These rules will also prevent errors caused by members receiving service credit in more than one state plan for the same hours worked.

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<sup>1</sup> If adequate data are not reasonably available, the agency shall explain the limitations of the data, the methods used in an attempt to obtain the data, and characterize the probable impacts in qualitative terms. (A.R.S. § 41-1055(C)).

- b. The harm resulting from the conduct the rule is designed to change and the likelihood it will continue to occur if the rule is not changed:

As indicated above, a misunderstanding of the statutes regarding ACR payments and contributions can lead to errors that may result in significant overpayments. Such overpayments then require administrative action to correct the error and adjust retirement accounts. Moreover, such misunderstanding may lead to incorrect retirement amounts being paid by the ASRS. This potential inaccuracy may decrease the funded status of the ASRS, which could result in increased rates for retirement and health benefit supplement contributions. More importantly, such inaccuracies must be corrected when they are discovered which can lead to further administrative delay and expenses in order to ensure the retirement account is accurate. The conduct is likely to continue without this rulemaking because, as discussed in subsection (a) above, many employers have difficulty in understanding when contributions should be remitted.

- c. The estimated change in frequency of the targeted conduct expected from the rule change:

This rulemaking will clarify the an employer should not remit a contribution on behalf of a member if the employer is already remitting an ACR on behalf of that member. This will reduce the number and amount of overpayments made by the employer and the amount of adjustments the ASRS must make when such errors are discovered. As discussed above and below, these amendments will increase the clarity and consistency of the rules, which should result in reducing the employer and member's confusion, as well as any potential errors and subsequent adjustment.

2. A brief summary of the information included in the economic, small business, and consumer impact statement:

The ASRS promulgates rules that allow the agency to provide for the proper administration of the state retirement trust fund. ASRS rules affect ASRS members

and ASRS employers regarding how they contribute to, and receive benefits from, the ASRS. The ASRS effectively administers how public-sector employers and employees participate in the ASRS. As such, the ASRS does not issue permits or licenses, or charge fees, and its rules have little to no economic impact on private-sector businesses, with the exception of some employer partner charter schools, which have voluntarily contracted to join the ASRS. Thus, there is little to no economic, small business, or consumer impact, other than the minimal cost to the ASRS to prepare the rule package. The rules will have minimal economic impact, if any, because they merely clarify contributing requirements that are already contained in statute, thereby reducing the regulatory burden and the economic impact.

3. The person to contact to submit or request additional data on the information included in the economic, small business, and consumer impact statement:

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4. Persons who will be directly affected by, bear the costs of, or directly benefit from the rulemaking:

In general, all members of the ASRS and employers will be directly affected by, bear the costs of, and directly benefit from this rulemaking. The ASRS incurred the cost of the rulemaking. The ASRS currently has a total membership of approximately 558,136.

Specifically, employers will be affected and benefited by this rulemaking because they will have a better understanding of when to remit contributions when an Alternate Rate Contribution (ACR) or other state retirement plan is involved. These rules will help prevent employers from overpaying a contribution on behalf of a specific member when they are currently remitting an ACR for that member. Such clarification will benefit employers and members by ensuring they understand how

contributions shall be remitted, and how service credits are allocated when more than one state retirement plan is involved.

5. Cost-benefit analysis:

- a. Costs and benefits to state agencies directly affected by the rulemaking including the number of new full-time employees at the implementing agency required to implement and enforce the proposed rule:

All ASRS members and employers are directly affected by this rulemaking because it will better clarify when contributions should be remitted to the ASRS. However, the ASRS has determined that no new full-time employees will be required to implement and enforce the rules.

- b. Costs and benefits to political subdivisions directly affected by the rulemaking:

This rulemaking does not provide any benefits or impose any costs on political subdivisions.

- c. Costs and benefits to businesses directly affected by the rulemaking:

No businesses are directly affected by the rulemaking.

6. Impact on private and public employment:

The rulemaking will have no impact on private or public employment, except to the extent that members may adjust employment schedules based on their inability to accrue service credits in more than one retirement plan for the same period of time.

7. Impact on small businesses<sup>2</sup>:

- a. Identification of the small business subject to the rulemaking:

No businesses, regardless of size, are subject to the rulemaking.

- b. Administrative and other costs required for compliance with the rulemaking:

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<sup>2</sup> Small business has the meaning specified in A.R.S. § 41-1001(20).

Not applicable.

c. Description of methods that may be used to reduce the impact on small businesses:

Not applicable.

8. Cost and benefit to private persons and consumers who are directly affected by the rulemaking:

All ASRS members are directly affected by the rulemaking. The effect has been previously described above.

9. Probable effects on state revenues:

There will be no effect on state revenues.

10. Less intrusive or less costly alternative methods considered:

The ASRS believes this is the least costly and least intrusive method because it will clarify the statutory requirements for remitting contributions without imposing any additional requirements on the public.